

**Advisory Committee on Juvenile Justice
Meeting Minutes**

January 31, 2007

Approved: April 25, 2007

The official business meeting of the Advisory Committee on Juvenile Justice was held at the Tuckahoe Library, 1901 Starling Drive, Richmond, Virginia 23229-4607.

Committee Members Present

Benjamin Andrews
Kevin Appel
Will Bronson, representing Janet Lung, Proxy for Dr. Reinhard
Jane Brown, Proxy for Anthony Conyers
The Hon. Warner D. (Dave) Chapman
Merilee Fox, representing Dr. Cindy Cave, Proxy for Dr. Cannaday, Jr.
Lynette Greenfield, Proxy for Barry Green
Eileen Grey
Andrew Jennings
The Hon. Jerrauld Jones
Dr. Jay W. Malcan
Charles Martin
The Hon. Charles Phelps
Daniel L. Plaugher
Robert E. Shepherd, Jr.
The Hon. Michael W. Stewart
Wayne Thomas
Ruby G. Turner
Gina E. Wood

Committee Members Not Present

The Hon. Robert B. Bell
Monica Estrada
Peter Feddo
Matthew T. Gowin
Sophia McEachin
Chief Rodney D. Monroe
The Hon. Linda T. Puller

Others Present

Sherrod Johnson, Virginia State University

DCJS Staff present

Laureen Hyman
Laurel Marks
Ashaki McNeil
Kathleen Moore
Curtis Stevens

I. Welcome, Call to Order and Introductions

The meeting was called to order by the Chair, Mr. Wayne Thomas. All present introduced themselves to the group.

II. Review and Approval of Minutes

Mr. Thomas asked if there were any comments, additions or deletions to be made to the minutes from the October 27, 2006, meeting of the ACJJ. Ms. Eileen Grey asked that the minutes be changed: under "JABG Waiver" delete the words "was made". Ms. Grey then made a motion to approve the minutes with those changes. The motion was seconded and approved unanimously.

III. Report of Nominations Subcommittee and Election of Officers

Ms. Gina Wood reported from the Nominations Subcommittee. A slate of officers was presented for the Chair and the Vice-Chair positions of the ACJJ. That slate included Mr. Martin as Chair of the committee and Ms. Grey as the Vice-Chair. Ms. Wood asked if there were any nominations from the floor. Mr. Bob Shepherd moved that the slate be closed. The motion was seconded and approved. Mr. Shepherd then made a motion that Mr. Martin serve as the new Chairman and Ms. Grey serve as the Vice Chair. The motion was seconded and approved unanimously.

IV. Review of Introduced Legislation

Ms. Laurel Marks indicated the Advisory Committee has historically reviewed legislation pending before the General Assembly and decided whether or not to take a position. Mr. Shepherd gave an overview on the following legislation:

Bill #	Definition	Position
HB1693	<p>Recording of interrogations of juveniles. <i>Requires that statements made by a juvenile criminal defendant accused of committing a violent juvenile felony are to be electronically recorded and that failure to record such statements shall be a factor to be considered by the court re admissibility.</i></p> <p>As it is requesting that interrogation must be electronically recorded, preferably by video tape, it derives some concern about conflicted testimony on confessions.</p> <p>Mr. Appel made the motion that the ACJJ support this bill.</p> <p>There was much discussion regarding this bill and its impact on law enforcement as well as the right of the juvenile in custody. Juveniles must be advised of their right to counsel.</p> <p>Mr. Shepherd reminded the ACJJ that this bill only applies to violent juvenile felonies and custodial juvenile facilities and doesn't apply to street questioning.</p> <p>Judge Jerrauld Jones noted that the law of Virginia does not require the parent or guardian to be present at the time of these confessions. The narrowness of the bill as it is now written, has greatly improved the bill.</p> <p>Ms. Wood made a call for the Question, was seconded and approved. Opposed: Mr. Ben Andrews.</p> <p>Mr. Appel's motion to support the bill was seconded and approved. Opposed: Mr. Chapman, Mr. Michael Stewart, Mr. Ben Andrews, Sheriff Charles Phelps, Abstentions: Ms. Jane Brown, DSS, Judge Jerrauld Jones, City of Norfolk, Ms. Lynette Greenfield, DJJ, Will Bronson, DMHRSAS, and Ms. Merilee Fox, DOE.</p> <p>The vote on this bill was mixed but the issue on whether it was addressed through policy or statute applies. If the bill is not successful, DCJS can work on a regulation or model policy for this issue.</p> <p>Dr. Malcan made a motion to work on policy for this issue. The motion was seconded and approved. Opposed: Mr. Stewart</p>	Support

HB1770	<p>Fingerprints and photographs of juveniles; destruction.</p> <p><i>Provides that if a petition or warrant is not ultimately filed against a juvenile whose fingerprints or photographs are taken when the juvenile is taken into custody and charged with an act that, if committed by an adult, would be required to be reported to the Central Criminal Records Exchange, the fingerprints and photographs must be destroyed within 60 days.</i></p> <p>Mr. Andrews made a motion to support HB 1770. The motion was seconded and unanimously approved. Abstentions: Jane Brown, DSS, Jerrauld Jones, City of Norfolk, Lynette Greenfield, DJJ, and Merilee Fox, DOE.</p>	Support
HB1756 & SB962	<p>Virginia Law Officers' Retirement System; membership.</p> <p><i>Adds probation and parole officers employed by the Department of Juvenile Justice to membership in the Virginia Law Officers' Retirement System.</i></p> <p>Ms. Grey made a motion that we support this bill. The motion was seconded and approved. Abstentions: Ms. Brown, DSS, Judge Jones, City of Norfolk, Ms. Greenfield, DJJ, and Ms. Fox, DOE.</p>	Approve
SB1178	<p>Department of Juvenile Justice records; confidentiality.</p> <p><i>Deletes the requirement that a law-enforcement agency, attorney for the Commonwealth, school administration, or probation office having a legitimate interest in the case, the juvenile, or the work of the court obtain a court order to inspect social, medical, psychiatric, and psychological reports and records of children who are or have been before the court, under supervision, receiving services from a court service unit, or committed to the Department of Juvenile Justice.</i></p> <p>Mr. Shepherd's concern is that there is a rational reason for confidentiality within the juvenile court. This bill doesn't specify what should be done with the records once they are received. Senator Stolle is amiable to having the bill limited. No amendment has yet come forth to narrow the bill. Ms. Grey noted that DJJ takes a lot of details down on social history of the family and is deeply troubled that information like that would be available. Mr. Chapman feels that this law enables other providers who need the information to get it.</p>	Oppose
HB1898	<p>Juveniles; records.</p> <p><i>Allows law-enforcement agency access to a child who is detained in a detention home in order to investigate an offense that would be a felony if committed by an adult and is unrelated to the matters upon which the child is being detained, unless the child refuses.</i></p> <p>Administration of a juvenile home can deny access to information. Very different from HB1178, but similar, in some ways. If law enforcement shows up wanting to interview under suspicion of crime in another jurisdiction, they would have the ability to interview them on unrelated charges. Bill is too broad.</p>	Oppose

Ms. Grey made a motion to deny approval of HB1178 and HB1898. The motion was seconded and approved unanimously. Some discussion followed regarding these bills.

Ms. Wood made a call for the Question, was seconded and approved. Abstentions: Ms. Brown, DSS, Judge Jones, City of Norfolk, Ms. Greenfield, DJJ, and Ms. Fox, DOE.

Ms. Wood would like to see the committee make recommendations for change, and take proactive measures for the future. Mr. Martin suggested it be added to the agenda for the next meeting.

Ms. Grey noted that she would like to see a report from the Juvenile Justice Crime Commission on the status of the grant.

HB2660	<p>Investigation of the social history of juveniles at the time of commitment.</p> <p><i>Requires the court to order an investigation of a juvenile's social history at the time of the juvenile's commitment if one has not been previously completed. The investigation shall be completed within 15 days of the commitment. Currently such an investigation is permissive.</i></p> <p>Mr. Shepherd made the motion that this bill be approved. The motion was seconded and approved unanimously. Abstentions: Ms. Brown, DSS, Judge Jones, City of Norfolk, Ms. Greenfield, DJJ, and Ms. Fox, DOE.</p>	Approved
HB3006	<p>Investigation following conviction for criminal street gang activity</p> <p><i>States that upon conviction for certain youth gang offenses, the probation and parole officer shall verify the offender's immigration status. Permits further investigation of the offender's household.</i></p> <p>Ms. Grey commented that this would more than likely be damaging to the family where the juvenile misbehaving triggers an investigation into the family and would, therefore, be damaging to the juvenile as well.</p> <p>Mr. Chapman suggested that it be determined if they are here lawfully before helping.</p> <p>Judge Jones asked if there are other provisions of this title that put this on other offenses. How did street gang activity make this necessary? Feels that it puts staff at odds with their client.</p> <p>A motion was made by Mr. Shepherd that we take no position on this bill. The motion was seconded and approved with one abstention: Judge Jones.</p>	No Position
HB3007	<p>Juvenile conviction in circuit court.</p> <p><i>Provides that the juvenile court is precluded from taking jurisdiction over a juvenile for subsequent offenses only if the juvenile is convicted as an adult. Under current law once a juvenile is tried or treated as an adult for an offense the juvenile court is precluded from taking jurisdiction for subsequent offenses.</i></p> <p>Ms. Wood made a motion that we support this bill. The bill was seconded and approved unanimously. Abstentions: Ms. Brown, DSS, Judge Jones, City of Norfolk, Ms. Greenfield, DJJ, and Ms. Fox, DOE.</p>	Support
HB2047	<p>Juveniles; duty of person taking child into custody.</p> <p><i>Requires that whenever a child who is under 14 years of age is taken into custody regarding the commission or alleged commission of certain acts, the person taking the child into custody shall advise the child whether the child is at liberty to terminate the interrogation and leave. If the child is not at liberty to leave, the person taking the child into custody shall advise the child that he has the right to counsel and to have present his parent, guardian, legal custodian, or other person standing in loco parentis.</i></p> <p>Ms. Wood made a motion that we oppose this bill as the language is not clear and there is no real protection for the kid and no reference to legal representation.</p> <p>Mr. Shepherd made a substitute motion that we take no position on this bill. The motion was seconded and approved. Opposed: Mr. Stewart. Abstentions: Ms. Brown, DSS, Judge Jones, City of Norfolk, Ms. Greenfield, DJJ, and Ms. Fox, DOE.</p>	No Position

HB2053	<p>Sentencing of juvenile convicted of capital murder.</p> <p><i>Provides that, upon a finding of guilty of any felony charge, the court shall fix the sentence of a juvenile defendant without the intervention of a jury. Currently, the Code provides for involvement of a jury in a capital case. In Roper v. Simmons, 543 U.S. 551 (2005), the U.S. Supreme Court held that the Eighth and Fourteenth Amendments forbid the execution of offenders who were under the age of 18 at the time of the crime.</i></p> <p>You cannot execute a juvenile who is convicted of capital murder. This bill says that the court shall fix the sentence without a jury. If the court then sentences, does the court then have a whole range of options? (If jury – they could only choose death or life without parole). Make capital murder trials more efficient.</p> <p>Mr. Shepherd made a motion to take no position. The motion was seconded and approved. Abstentions: Ms. Brown, DSS, Judge Jones, City of Norfolk, Ms. Greenfield, DJJ, and Ms. Fox, DOE.</p>	No Position
HB2661	<p>Release of confidential records of the Department of Juvenile Justice.</p> <p><i>Adds group homes, residential facilities, and postdispositional facilities to the list of those eligible to review social, medical, psychiatric, and psychological reports and records of children who are or have been (i) before the court, (ii) under supervision, or (iii) receiving services from a court service unit or who are committed to the Department of Juvenile Justice. Any copies of those records in the custody of the newly added review-eligible facilities shall be destroyed if the juvenile is not admitted to such a facility.</i></p> <p>This bill codifies current practice.</p> <p>A motion was made by Danny Plaughter to approve. Was seconded and approved. Abstentions: Ms. Brown, DSS, Judge Jones, City of Norfolk, Ms. Greenfield, DJJ, and Ms. Fox, DOE.</p>	Approve
HB2201 & SB1290	<p>Interstate Compact for Juveniles.</p> <p><i>Repeals the Interstate Compact Relating to Juveniles located in Article 14 (§16.1-323 et seq.) of Chapter 11 of Title 16.1 and replaces it with the current version of the Interstate Compact for Juveniles, which has already been enacted in 30 states and provides for enhanced accountability, enforcement, visibility, and communication in relation to tracking and supervising juveniles moving across state borders. Provides for an appointed five-member State Council to exercise oversight of Virginia's participation in the Compact. This bill as passed is identical to SB 1290.</i></p> <p>Does this bill violate the JJDP Act? Under current law, we have violations under this bill. We do hold juveniles under the interstate compact when they are not held under Virginia's laws. Judge Jones said Virginia is being asked by all other states to allow this bill. Not only criminal, but civil and custodial as well. Believes this bill is important to the administration to bring Virginia into the compact as well.</p> <p>Sheriff Phelps made a motion to approve this bill, the motion was seconded and approved. Abstentions: Judge Jones and Ms. Fox, DOE.</p>	Approve

HB2361 & SB 1168	<p>Waiver on compensation cap for court-appointed attorneys.</p> <p><i>Provides that court-appointed counsel, who are not public defenders, may request a waiver of the limitations on compensation up to certain specified additional amounts depending on the charges being defended when the effort expended, the time reasonably necessary for the representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver.</i></p> <p>Mr. Shepherd made a motion to approve this bill, the motion was seconded and approved. Abstentions: Ms. Brown, DSS, Judge Jones, City of Norfolk, Ms. Greenfield, DJJ, and Ms. Fox, DOE.</p>	Approve
SJ327	<p>Study; Continuing the Joint Subcommittee to Study the Commonwealth's Program for Prisoner Reentry to Society.</p> <p><i>Continues the Joint Subcommittee to Study the Commonwealth's Program for Prisoner Reentry to Society. This resolution incorporates SJR 363 (Quayle) and is identical to HJR 652 (Welch).</i></p> <p>Mr. Shepherd made a motion to support this bill, was seconded and approved.</p>	Support
INFORMATION ONLY		
HB2768	<p>Possession of certain firearms by persons under the age of 18; parental consent.</p> <p><i>Qualifies that a person under the age of 18 may only possess a handgun or firearm at his home or at the home of his parent, grandparent, or legal guardian if the parent or legal guardian has given permission for the possession of the handgun or firearm.</i></p>	
HB3007	<p>Juvenile conviction in circuit court.</p> <p><i>Provides that the juvenile court is precluded from taking jurisdiction over a juvenile for subsequent offenses only if the juvenile is convicted as an adult. Under current law once a juvenile is tried or treated as an adult for an offense the juvenile court is precluded from taking jurisdiction for subsequent offenses.</i></p>	
SB1080	<p>Telephone systems within state correctional facilities.</p> <p><i>Creates a nonreverting Prisoner Reentry Fund consisting of payments received as commission payments for telephone systems established within correctional facilities. The fund is to be used for independent pre-release and post-release transition services programs and administered through the Department of Criminal Justice Services. The bill also caps commission payments to the Commonwealth at 10% of the amount paid by the individuals who use the service.</i></p>	
SB1248	<p>Driving without a license; juveniles.</p> <p><i>Specifies that a juvenile who drives without a license after the juvenile court has issued an order denying the juvenile the ability to apply for a license, is guilty of a violation of §46.2-300 (driving without a license), which is a Class 2 misdemeanor.</i></p>	
SJ348	<p>Study; costs of education versus incarceration; report.</p> <p><i>Directs the Joint Legislative Audit and Review Commission (JLARC) to study the cost of a K-12 education compared to the cost of incarceration over 5, 10, 15, and 20 years.</i></p>	

V. Compliance Monitoring Report

Mr. Curtis Stevens gave a compliance monitoring report on Virginia for 2006.

In 2006, 96 secure holding facilities received onsite compliance monitoring visits. These facilities include 25 detention homes, 7 juvenile correctional centers, 55 jails, and 9 lockups. There were no major problems noted during monitoring visits and our compliance rates were similar to what they have been in recent years.

The 2006 Annual Compliance Monitors Report was completed and submitted to OJJDP on December 19, 2006.

In 2006 we reported a total of 48 DSO violations. Of these, 28 were federal wards that were placed in a Virginia Juvenile Detention Home by Immigrations and Customs Enforcement. There were 30 sight and sound violations reported as a result of the circuit court kids who were not held sight and sound separated at the Juvenile Correctional Centers prior to May 1, when DJJ implemented their new policy where the circuit court youth are now being sent to Culpeper. This figure also included the small number of cases that were being held at Oak Ridge. Because of the implementation of DJJ's new policy, we had far fewer sight and sound violations to report this year over recent years.

OJJDP coming February 26th-March 1st for a compliance monitoring visit.

VI. Report of DMC Subcommittee

Ms. Wood, Chairperson of the DMC Subcommittee noted that the ACJJ Committee asked our subcommittee to explore how we can engage the Hayward Burns Institute. With some one time grant funding in 2006 we funded a couple of sites (Norfolk and the Department of Human Services in Newport News) to go through an assessment process with regards to DMC. The subcommittee would like the ACJJ to approve engagement of Hayward Burns Institute in a full intensive engagement with Newport News and Norfolk. Staff has indicated that there are funds that can be used for this purpose.

The DMC Subcommittee asked the full committee to support the motion to allow the DMC Subcommittee to move forward to engage the Hayward Burns Institute and Newport News and Norfolk, and rely upon staff to find funding to do that. The motion was approved unanimously.

Committee members were reminded that a DMC Conference will be held on March 27-28, 2007, cosponsored by DCJS and Virginia State University.

VII. Juvenile Justice System Assessment Initiative

As fewer funds are available, it is important to use funds wisely. Montgomery and Floyd County (funded in 2006 by one time grant funds approved by the ACJJ) contracted with the University of Cincinnati, Center for Criminal Justice Research, headed by Dr. Ed Latessa to conduct a system wide assessment of their current continuum of services and resources available to juveniles and their families.

The ACJJ was asked to give their support to bring back Dr. Latessa to assist other sites within Virginia by replicating this assessment. We will not know the cost until it can be determined how many localities Dr. Latessa will be assisting. A solicitation will be sent to localities to determine who will participate in this evaluation. We will have more information on this by the next ACJJ meeting on April 17, 2007.

Ms. Wood suggested that we request for technical assistance through OJJDP as it seemed like a good fit and there would be no cost to the state.

A motion was made by Mr. Daniel Plaugher to find the resources necessary to fund this project. The motion was seconded and unanimously approved.

VIII. Solicitation of Spirit of Youth Award Nominations

Ms. Marks explained to members that the Spirit of Youth Award would be presented at the annual Juvenile Justice Conference, June 19-20 (the full Advisory Committee Meeting will take place on the evening of the 18th) at the Hampton Roads Convention Center.

Members were asked to review the application and get back with staff on any recommendations for the application. Ms. Brown pointed out that last year the subcommittee was asked to go back and get feedback with probation to make sure they weren't inflated nominations. It was suggested that this year, we ask for someone who can confirm or verify the contents of the application.

IX. Advisory Committee Member Activity Reports

Ms. Greenfield mentioned that the data resource guide was recently distributed. If additional copies are needed, she asked that they be requested through her.

Ms. Brown spoke of the Prisoner Reentry Project in Virginia which is in its third year. The Department of Social Services was awarded a continuation award from the National Governor's Association. In June, Governor Kaine established it through an Executive Order so that the policy academy will continue after the NGA year ends.

Judge Jones informed the group that in July of 2008 the National Counsel of Juvenile and Family Court Judges will take place in Norfolk, Virginia.

X. Justice Assistance Grants Review

Ms. Marks reported that these grants, once known as the Byrne Grants, are now called Justice Assistance Grants. They are restructuring how these grants are read and presented to the Criminal Justice Services Board. The Grants subcommittee of the ACJJ will now be asked to review Byrne NAG grants.

XI. Adjourn

Mr. Martin asked that a handout be created identifying the ACJJ positions on bills that can be distributed to the members so they may follow legislation.

It was noted that bylaws need to be written for the ACJJ. Mr. Martin and Mr. Shepherd discussed drafting a set for others to review at a later date.

A motion was made by Mr. Martin to adjourn at 2:20pm, was seconded and approved unanimously.